



CITY COUNCIL STAFF REPORT

MEETING DATE: July 16, 2003

Agenda Item # 26

Prepared By:

Senior Planner

Approved By:

**Director of Community
Development**

Submitted By:

City Manager

ZAA 98-20: SPRING AVE.-WESTPOL PROPERTIES, LLC (MALONE)

RECOMMENDED ACTION(S):

Open/close Public Hearing

Adopt Resolution denying request to amend the precise development plan.

EXECUTIVE SUMMARY: Applicant is requesting an amendment to the adopted precise development plan to allow an adjustment of the open space limit line on 14 lots within the 21 lot Spring Manor subdivision located on the south side of Spring Ave. adjacent to the west side of the Mt. Hope cemetery.

In October 1999, the City Council adopted a precise development plan for the 15.28 acre site. The adopted precise development plan clustered the 21 single family homes toward the north side of the site along Spring Ave. The precise development plan also included a development limit line which required all land on slopes in excess of 10 percent to be left as open space. Open space easements were recorded on each lot precluding any alteration of the land above the open space limit line. The purpose of the open space easement was to prohibit the encroachment of backyard improvements up the hillside.

The boundary of the 10 percent slope line is delineated on the site by the location of a "v" ditch drainage swale. The project's owner/developer, Andy Latala of Westpol Properties LLC. has submitted a request to amend the limits of the open space area from the 10 percent slope line to the 20 percent slope line. The attached diagram, Exhibit A, shows the existing and proposed open space boundary lines. In his letter (attached) he indicates that the lack of useable outdoor area behind the homes has inhibited the sale of several homes within the subdivision.

The Planning Commission considered this request at their June 24 meeting. The Commission voted 5-1 (Commissioner Mueller voting against) to recommend City Council denial of the request to amend the boundary of the open space easement. The Commission concurred with the staff recommendation that the precise development plan should not be altered and the hillside should be preserved in its natural state as originally agreed to in the RPD. The Commission noted that the building envelopes created on the lots were more than adequate to accommodate homes and useable outdoor space. The developer was aware of the open space restriction when he purchased the subdivision and the Commission observed it was his choice to construct larger homes that left smaller outdoor areas. A copy of the June 24 staff report and meeting minutes are attached for the Council's reference.

FISCAL IMPACT: No budget adjustment required.

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL DENYING A REQUEST TO AMEND THE OPEN SPACE EASEMENT LIMITATIONS WITHIN THE PRECISE DEVELOPMENT PLAN FOR THE SPRING MANOR RESIDENTIAL PLANNED DEVELOPMENT.

WHEREAS, such request was considered by the City Council at their regular meeting of July 16, 2003, at which time the City Council did not approve of application ZAA-98-20: Spring Ave.-Westpol Properties LLC; and

WHEREAS, testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials have been considered in the review process.

**NOW, THEREFORE, THE MORGAN HILL CITY COUNCIL DOES RESOLVE
AS FOLLOWS:**

SECTION 1. The proposed RPD amendment is inconsistent with the original purpose of the development plan adopted under Ordinance 1458.

SECTION 2. The preservation of the open space area was a consideration in the application of the Single Family low General Plan land use designation and the rezoning of the property to R-1 12,000/RPD.

SECTION 3. The City Council finds that the proposed amendment to the precise development plan is inconsistent with the criteria specified in Chapter 18.18 of the Morgan Hill Municipal Code, by decreasing the amount of open space retained within the project.

SECTION 4. The City Council finds that the building envelopes created on the lots within the subdivision were adequate to accommodate homes and useable outdoor space.

SECTION 5. The developer was aware of the open space restriction when he purchased the subdivision. The restricted outdoor useable area is a result of a choice to construct large homes on the parcels. The execution of this choice does not provide sufficient justification to amend the open space easement within the RPD.

SECTION 6. The City Council hereby denies the RPD amendment request.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 16th Day of July, 2003, by the following vote.

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

🏛️ CERTIFICATION 🏛️

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on July 16, 2003.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk



CITY COUNCIL STAFF REPORT

MEETING DATE: JULY 16, 2003

PUBLIC HEARING AND ADOPTION OF RESOLUTIONS CONFIRMING FISCAL YEAR 2003-04 ANNUAL ASSESSMENT FOR THE FOX HOLLOW-MURPHY SPRINGS ASSESSMENT DISTRICT

RECOMMENDED ACTION(S):

- 1) Open and Close the Public Hearing
- 2) Adopt the attached resolutions confirming the Fiscal Year 2003-04 Annual Assessment for the Fox Hollow/Murphy Springs Assessment District

EXECUTIVE SUMMARY: The Fox Hollow-Murphy Springs Assessment District was created to pay for the maintenance of the parks and common area landscaping in new neighborhoods benefiting from the open space. Per Government Code sections 22623 to 22631, an engineer's report is required to set the annual assessments in the District.

At its June 18, 2003 meeting Council declared its intent to levy assessments in the Fox Hollow/Murphy Springs Assessment District and established the public hearing date set for tonight's meeting. Notice of tonight's public hearing was posted in the newspaper in accordance with State Law.

The district consists of 20 residential sub-areas, affecting a total of 755 lots. Proposed changes in the annual assessments for each sub-area are shown on a Memo dated June 6, 2003 to J. Edward Tewes, City Manager from Mori Struve, Deputy Director, Public Works. It is proposed the assessment rate increase in 3 sub-areas effecting 219 of the 755 property owners, decrease in 1, and remain unchanged in 16. None of the proposed assessment rate increases exceed the maximum assessment rate approved at the time of the sub-area's annexation into the district and therefore, balloting procedures as described in Proposition 218 are not required. All 219 property owners whose assessment rate is proposed to be raised have been notified of tonight's public hearing. They were also invited to attend a public meeting providing them an opportunity to ask questions of staff. This meeting was held on Monday July 14, 2002 at 7:00. Results of that meeting will be provided verbally to Council at tonight's public hearing.

The changes in assessment rates as proposed are necessary to meet current costs for maintenance and to adjust the fund balance or deficit in each sub-area. Staff is managing the District to create or maintain approximately a \$2,000 positive fund balance for each individual sub-area. This fund balance will serve as a contingency for routine maintenance costs for any given fiscal year.

For tonight's public hearing the six resolutions requiring adoption will 1) Amend or approve the Final Engineer's Report for levy of the assessments 2) Order the levy and collection of assessments. These resolutions comply with the Landscaping and Lighting Act of 1972.

FISCAL IMPACT: The cost for preparation of this staff report and the engineer's report will be paid for by the Assessment District. It is anticipated that the District will generate **\$135,855** in gross revenues for the Fiscal Year 2003-04 and will offset the costs of maintenance provided.

Agenda Item # 27

Prepared By:

**Deputy Director Public
Works/Operations**

Approved By:

Public Works Director

Submitted By:

City Manager

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL, CALIFORNIA, AMENDING AND/OR APPROVING THE FINAL ENGINEER'S ANNUAL LEVY REPORT FOR THE FOX HOLLOW/MURPHY SPRINGS LANDSCAPE MAINTENANCE DISTRICT (EXCLUDING THE CONTE GARDENS AND SANDALWOOD ESTATES ZONES), FISCAL YEAR 2003/04

The City Council of the City of Morgan Hill (hereafter referred to as the "City Council") does resolve as follows:

WHEREAS, the City Council, pursuant to the provisions of the *Landscape and Lighting Act of 1972, Part 2, Division 15 of the California Streets and Highways Code (commencing with Section 22500)* (hereafter referred to as the "Act") did by previous Resolution, order the Engineer, NBS Government Finance Group, to prepare and file a report in accordance with *Chapter 1 Article 4* of the Act, *commencing with Section 22565*, in connection with the proposed levy and collection of assessments for the District known and designated as the Fox Hollow/Murphy Springs Landscape Assessment District (**excluding the Conte Gardens and Sandalwood Estates Zones**) (hereafter referred to as the "District"), for the fiscal year commencing July 1, 2003 and ending June 30, 2004; and,

WHEREAS, the Engineer has prepared and filed with the City Clerk of the City of Morgan Hill and the City Clerk has presented to the City Council such report entitled "Final Engineer's Annual Levy Report, Fox Hollow/Murphy Springs Landscape Assessment District, Fiscal Year 2003/04" (hereafter referred to as the "Report"); and,

WHEREAS, the City Council has carefully examined and reviewed the Report as presented, and is satisfied with each and all of the items and documents as set forth therein, and finds that the levy has been spread in accordance with the special benefits received from the improvements, operation, maintenance and services to be performed, as set forth in said Report; and,

NOW, THEREFORE BE IT RESOLVED, DETERMINED, AND ORDERED BY THE CITY COUNCIL FOR THE DISTRICT, AS FOLLOWS:

Section 1 That City Council hereby approves the Report as filed.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 16th Day of July, 2003, by the following vote.

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:

🏛️ CERTIFICATION 🏛️

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on July 16, 2003.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL, CALIFORNIA, AMENDING AND/OR APPROVING THE FINAL ENGINEER'S ANNUAL LEVY REPORT FOR THE FOX HOLLOW/MURPHY SPRINGS LANDSCAPE MAINTENANCE DISTRICT (REFERRING ONLY TO THE CONTE GARDENS ZONE), FISCAL YEAR 2003/04

The City Council of the City of Morgan Hill (hereafter referred to as the "City Council") does resolve as follows:

WHEREAS, the City Council, pursuant to the provisions of the *Landscape and Lighting Act of 1972, Part 2, Division 15 of the California Streets and Highways Code (commencing with Section 22500)* (hereafter referred to as the "Act") did by previous Resolution, order the Engineer, NBS Government Finance Group, to prepare and file a report in accordance with *Chapter 1 Article 4* of the Act, *commencing with Section 22565*, in connection with the proposed levy and collection of assessments for the District known and designated as the Fox Hollow/Murphy Springs Landscape Assessment District (**referring only to the Conte Gardens Zone**) (hereafter referred to as the "District"), for the fiscal year commencing July 1, 2003 and ending June 30, 2004; and,

WHEREAS, the Engineer has prepared and filed with the City Clerk of the City of Morgan Hill and the City Clerk has presented to the City Council such report entitled "Final Engineer's Annual Levy Report, Fox Hollow/Murphy Springs Landscape Assessment District, Fiscal Year 2003/04" (hereafter referred to as the "Report"); and,

WHEREAS, the City Council has carefully examined and reviewed the Report as presented, and is satisfied with each and all of the items and documents as set forth therein, and finds that the levy has been spread in accordance with the special benefits received from the improvements, operation, maintenance and services to be performed, as set forth in said Report; and,

NOW, THEREFORE BE IT RESOLVED, DETERMINED, AND ORDERED BY THE CITY COUNCIL FOR THE DISTRICT, AS FOLLOWS:

Section 1 That City Council hereby approves the Report as filed.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 16th Day of July, 2003, by the following vote.

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:

☞ CERTIFICATION ☞

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DATE: _____

IRMA TORREZ, City Clerk

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL, CALIFORNIA, AMENDING AND/OR APPROVING THE FINAL ENGINEER'S ANNUAL LEVY REPORT FOR THE FOX HOLLOW/MURPHY SPRINGS LANDSCAPE MAINTENANCE DISTRICT (REFERRING ONLY TO THE SANDALWOOD ESTATES ZONE), FISCAL YEAR 2003/04

The City Council of the City of Morgan Hill (hereafter referred to as the "City Council") does resolve as follows:

WHEREAS, the City Council, pursuant to the provisions of the *Landscape and Lighting Act of 1972, Part 2, Division 15 of the California Streets and Highways Code (commencing with Section 22500)* (hereafter referred to as the "Act") did by previous Resolution, order the Engineer, NBS Government Finance Group, to prepare and file a report in accordance with *Chapter 1 Article 4* of the Act, *commencing with Section 22565*, in connection with the proposed levy and collection of assessments for the District known and designated as the Fox Hollow/Murphy Springs Landscape Assessment District (**referring only to the Sandalwood Estates Zone**) (hereafter referred to as the "District"), for the fiscal year commencing July 1, 2003 and ending June 30, 2004; and,

WHEREAS, the Engineer has prepared and filed with the City Clerk of the City of Morgan Hill and the City Clerk has presented to the City Council such report entitled "Final Engineer's Annual Levy Report, Fox Hollow/Murphy Springs Landscape Assessment District, Fiscal Year 2003/04" (hereafter referred to as the "Report"); and,

WHEREAS, the City Council has carefully examined and reviewed the Report as presented, and is satisfied with each and all of the items and documents as set forth therein, and finds that the levy has been spread in accordance with the special benefits received from the improvements, operation, maintenance and services to be performed, as set forth in said Report; and,

NOW, THEREFORE BE IT RESOLVED, DETERMINED, AND ORDERED BY THE CITY COUNCIL FOR THE DISTRICT, AS FOLLOWS:

Section 1 That City Council hereby approves the Report as filed.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 16th Day of July, 2003, by the following vote.

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:

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WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL, CALIFORNIA, ORDERING THE LEVY AND COLLECTION OF ASSESSMENTS WITHIN THE FOX HOLLOW/MURPHY SPRINGS LANDSCAPE MAINTENANCE DISTRICT (EXCLUDING THE CONTE GARDENS AND SANDALWOOD ESTATES ZONES), FISCAL YEAR 2003/04

The City Council of the City of Morgan Hill (hereafter referred to as the "City Council") does resolve as follows:

WHEREAS, the City Council has, by previous Resolutions initiated proceedings, and approved the Final Engineer's Annual Levy Report (hereafter referred to as the "Report") as presented or amended which described the assessments against parcels of land within the Fox Hollow/Murphy Springs Landscape Assessment District (**excluding the Conte Gardens and Sandalwood Estates Zones**) (hereafter referred to as the "District") for the fiscal year commencing July 1, 2003 and ending June 30, 2004; pursuant to the provisions of the *Landscape and Lighting Act of 1972, Part 2, Division 15 of the California Streets and Highways Code (commencing with Section 22500)* (hereafter referred to as the "Act") to pay the costs and expenses of operating, maintaining and servicing the improvements located within the District; and,

WHEREAS, The Engineer selected by the City Council has prepared and filed with the City Clerk, and the City Clerk has presented to the City Council, a Report in connection with the proposed levy and collection upon eligible parcels of land within the District, and the City Council did by previous Resolution approve such Report; and,

WHEREAS, the City Council desires to levy and collect assessments against parcels of land within the District for the fiscal year commencing July 1, 2003 and ending June 30, 2004, to pay the costs and expenses of operating, maintaining and servicing the improvements within the District; and,

WHEREAS, the Assessment rates within each Zone are exempt from the assessment balloting procedures set forth in Section 4 SEC. 4 of Proposition 218 because the District and Zones were formed by consent of 100% of the land owners, and the proposed Assessments per lot or parcel are not proposed to increase by more than the assessment rates approved by the landowners at the time of annexation into the District; and,

WHEREAS, the assessment levies are not based upon the assessed value of the property within the District, but are based upon the special benefit received by the parcels within the District from the improvements; and,

NOW, THEREFORE BE IT RESOLVED, DETERMINED, AND ORDERED BY THE CITY COUNCIL FOR THE DISTRICT, AS FOLLOWS:

Section 1 Following notice duly given, the City Council has held a full and fair Public Hearing regarding its Resolution Approving and or Amending the Final Engineer's Annual Levy Report prepared in connection therewith; the levy and collection of assessments, and considered all oral and written statements, protests and communications made or filed by interested persons.

Section 2 Based upon its review (and amendments, as applicable) of the Final Engineer's Annual Levy Report, a copy of which has been presented to the City Council and which has been filed with the City Clerk, the City Council hereby finds and determines that:

- i) the land within the District will receive special benefit by the operation, maintenance, and servicing of landscaping and appurtenant facilities within the boundaries of the District.
- ii) The District includes all of the lands receiving such special benefit.
- iii) the net amount to be assessed upon the lands within the District in accordance with the costs for the fiscal year commencing July 1, 2003 and ending June 30, 2004 is apportioned by a formula and method which fairly distributes the net amount among all eligible parcels in proportion to the estimated special benefit to be received by each parcel from the improvements and services.

Section 3 The Report and assessment as presented to the City Council and on file in the office of the City Clerk are hereby confirmed as filed.

Section 4 The City Council hereby orders the proposed improvements to be made, which improvements are briefly described as follows: turf, shrubs, plants and trees, landscaping, irrigation and drainage systems, graffiti removal, and associated appurtenances within the public right-of-ways or specific easements. Maintenance means the furnishing of services and materials for the ordinary and usual maintenance of landscaping and appurtenant facilities, including repair, removal or replacement of all or part of any of the landscaping or appurtenant facilities; providing for the satisfactory working condition, life, growth, health and beauty of the improvements, including cultivation, irrigation, trimming, spraying, fertilization and treating for disease or injury; the removal of trimmings, rubbish, debris and other solid waste. Services provided include furnishing of water and electricity for the irrigation and control of the landscaping, and all necessary service, operations, administration and maintenance required to keep the improvements in a healthy, vigorous and satisfactory condition.

Section 5 The maintenance, operation and servicing of the landscaping and appurtenant facilities shall be performed pursuant to the Act and the County Auditor of the County of Santa Clara shall enter on the County Assessment Roll opposite each parcel of land the amount of levy, and such levies shall be collected at the same time and in the same manner as the County taxes are collected. After collection by the County, the net amount of the levy shall be paid to the City Treasurer.

Section 6 The City Treasurer shall deposit all money representing assessments collected by the County of Santa Clara for the District to the credit of a fund for the Fox Hollow/Murphy Springs Landscape Assessment District, and such money shall be expended only for the maintenance, operation and servicing of the landscaping and appurtenant facilities as described in Section 4.

Section 7 The adoption of this Resolution constitutes the District levy for the Fiscal Year commencing July 1, 2003 and ending June 30, 2004.

Section 8 The City Clerk is hereby authorized and directed to file the levy with the County Auditor upon adoption of this Resolution.

Section 9 A certified copy of the levy shall be filed in the office of the City Clerk and open for public inspection.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 16th Day of July, 2003, by the following vote.

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:

🔒 CERTIFICATION 🔒

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on July 16, 2003.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL,
CALIFORNIA, ORDERING THE LEVY AND COLLECTION OF
ASSESSMENTS WITHIN THE FOX HOLLOW/MURPHY SPRINGS
LANDSCAPE MAINTENANCE DISTRICT (REFERRING ONLY TO THE
CONTE GARDENS ZONE), FISCAL YEAR 2003/04**

The City Council of the City of Morgan Hill (hereafter referred to as the "City Council") does resolve as follows:

WHEREAS, the City Council has, by previous Resolutions initiated proceedings, and approved the Final Engineer's Annual Levy Report (hereafter referred to as the "Report") as presented or amended which described the assessments against parcels of land within the Fox Hollow/Murphy Springs Landscape Assessment District (**referring only to the Conte Gardens Zone**) (hereafter referred to as the "District") for the fiscal year commencing July 1, 2003 and ending June 30, 2004; pursuant to the provisions of the *Landscape and Lighting Act of 1972, Part 2, Division 15 of the California Streets and Highways Code (commencing with Section 22500)* (hereafter referred to as the "Act") to pay the costs and expenses of operating, maintaining and servicing the improvements located within the District; and,

WHEREAS, The Engineer selected by the City Council has prepared and filed with the City Clerk, and the City Clerk has presented to the City Council, a Report in connection with the proposed levy and collection upon eligible parcels of land within the District, and the City Council did by previous Resolution approve such Report; and,

WHEREAS, the City Council desires to levy and collect assessments against parcels of land within the District for the fiscal year commencing July 1, 2003 and ending June 30, 2004, to pay the costs and expenses of operating, maintaining and servicing the improvements within the District; and,

WHEREAS, the Assessment rates within each Zone are exempt from the assessment balloting procedures set forth in Section 4 SEC. 4 of Proposition 218 because the District and Zones were formed by consent of 100% of the land owners, and the proposed Assessments per lot or parcel are not proposed to increase by more than the assessment rates approved by the landowners at the time of annexation into the District; and,

WHEREAS, the assessment levies are **not** based upon the assessed value of the property within the District, but are based upon the special benefit received by the parcels within the District from the improvements; and,

NOW, THEREFORE BE IT RESOLVED, DETERMINED, AND ORDERED BY THE CITY COUNCIL FOR THE DISTRICT, AS FOLLOWS:

Section 1 Following notice duly given, the City Council has held a full and fair Public Hearing regarding its Resolution Approving and or Amending the Final Engineer's Annual Levy Report prepared in connection therewith; the levy and collection of assessments, and considered all oral and written statements, protests and communications made or filed by interested persons.

Section 2 Based upon its review (and amendments, as applicable) of the Final Engineer's Annual Levy Report, a copy of which has been presented to the City Council and which has been filed with the City Clerk, the City Council hereby finds and determines that:

- i) the land within the District will receive special benefit by the operation, maintenance, and servicing of landscaping and appurtenant facilities within the boundaries of the District.
- ii) The District includes all of the lands receiving such special benefit.
- iii) the net amount to be assessed upon the lands within the District in accordance with the costs for the fiscal year commencing July 1, 2003 and ending June 30, 2004 is apportioned by a formula and method which fairly distributes the net amount among all eligible parcels in proportion to the estimated special benefit to be received by each parcel from the improvements and services.

Section 3 The Report and assessment as presented to the City Council and on file in the office of the City Clerk are hereby confirmed as filed.

Section 4 The City Council hereby orders the proposed improvements to be made, which improvements are briefly described as follows: turf, shrubs, plants and trees, landscaping, irrigation and drainage systems, graffiti removal, and associated appurtenances within the public right-of-ways or specific easements. Maintenance means the furnishing of services and materials for the ordinary and usual maintenance of landscaping and appurtenant facilities, including repair, removal or replacement of all or part of any of the landscaping or appurtenant facilities; providing for the satisfactory working condition, life, growth, health and beauty of the improvements, including cultivation, irrigation, trimming, spraying, fertilization and treating for disease or injury; the removal of trimmings, rubbish, debris and other solid waste. Services provided include furnishing of water and electricity for the irrigation and control of the landscaping, and all necessary service, operations, administration and maintenance required to keep the improvements in a healthy, vigorous and satisfactory condition.

Section 5 The maintenance, operation and servicing of the landscaping and appurtenant facilities shall be performed pursuant to the Act and the County Auditor of the County of Santa Clara shall enter on the County Assessment Roll opposite each parcel of land the amount of levy, and such levies shall be collected at the same time and in the same manner as the County taxes are collected. After collection by the County, the net amount of the levy shall be paid to the City Treasurer.

Section 6 The City Treasurer shall deposit all money representing assessments collected by the County of Santa Clara for the District to the credit of a fund for the Fox Hollow/Murphy Springs Landscape Assessment District, and such money shall be expended only for the maintenance, operation and servicing of the landscaping and appurtenant facilities as described in Section 4.

Section 7 The adoption of this Resolution constitutes the District levy for the Fiscal Year commencing July 1, 2003 and ending June 30, 2004.

Section 8 The City Clerk is hereby authorized and directed to file the levy with the County Auditor upon adoption of this Resolution.

Section 9 A certified copy of the levy shall be filed in the office of the City Clerk and open for public inspection.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 16th Day of July, 2003, by the following vote.

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

🦉 CERTIFICATION 🦉

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on July 16, 2003.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL, CALIFORNIA, ORDERING THE LEVY AND COLLECTION OF ASSESSMENTS WITHIN THE FOX HOLLOW/MURPHY SPRINGS LANDSCAPE MAINTENANCE DISTRICT (REFERRING ONLY TO THE SANDALWOOD ESTATES ZONE), FISCAL YEAR 2003/04

The City Council of the City of Morgan Hill (hereafter referred to as the "City Council") does resolve as follows:

WHEREAS, the City Council has, by previous Resolutions initiated proceedings, and approved the Final Engineer's Annual Levy Report (hereafter referred to as the "Report") as presented or amended which described the assessments against parcels of land within the Fox Hollow/Murphy Springs Landscape Assessment District (**referring only to the Sandalwood Estates Zone**) (hereafter referred to as the "District") for the fiscal year commencing July 1, 2003 and ending June 30, 2004; pursuant to the provisions of the *Landscape and Lighting Act of 1972, Part 2, Division 15 of the California Streets and Highways Code (commencing with Section 22500)* (hereafter referred to as the "Act") to pay the costs and expenses of operating, maintaining and servicing the improvements located within the District; and,

WHEREAS, The Engineer selected by the City Council has prepared and filed with the City Clerk, and the City Clerk has presented to the City Council, a Report in connection with the proposed levy and collection upon eligible parcels of land within the District, and the City Council did by previous Resolution approve such Report; and,

WHEREAS, the City Council desires to levy and collect assessments against parcels of land within the District for the fiscal year commencing July 1, 2003 and ending June 30, 2004, to pay the costs and expenses of operating, maintaining and servicing the improvements within the District; and,

WHEREAS, the Assessment rates within each Zone are exempt from the assessment balloting procedures set forth in Section 4 SEC. 4 of Proposition 218 because the District and Zones were formed by consent of 100% of the land owners, and the proposed Assessments per lot or parcel are not proposed to increase by more than the assessment rates approved by the landowners at the time of annexation into the District; and,

WHEREAS, the assessment levies are **not** based upon the assessed value of the property within the District, but are based upon the special benefit received by the parcels within the District from the improvements; and,

NOW, THEREFORE BE IT RESOLVED, DETERMINED, AND ORDERED BY THE CITY COUNCIL FOR THE DISTRICT, AS FOLLOWS:

Section 1 Following notice duly given, the City Council has held a full and fair Public Hearing regarding its Resolution Approving and or Amending the Final Engineer's Annual Levy Report prepared in connection therewith; the levy and collection of assessments, and considered all oral and written statements, protests and communications made or filed by interested persons.

Section 2 Based upon its review (and amendments, as applicable) of the Final Engineer's Annual Levy Report, a copy of which has been presented to the City Council and which has been filed with the City Clerk, the City Council hereby finds and determines that:

- i) the land within the District will receive special benefit by the operation, maintenance, and servicing of landscaping and appurtenant facilities within the boundaries of the District.
- ii) The District includes all of the lands receiving such special benefit.
- iii) the net amount to be assessed upon the lands within the District in accordance with the costs for the fiscal year commencing July 1, 2003 and ending June 30, 2004 is apportioned by a formula and method which fairly distributes the net amount among all eligible parcels in proportion to the estimated special benefit to be received by each parcel from the improvements and services.

Section 3 The Report and assessment as presented to the City Council and on file in the office of the City Clerk are hereby confirmed as filed.

Section 4 The City Council hereby orders the proposed improvements to be made, which improvements are briefly described as follows: turf, shrubs, plants and trees, landscaping, irrigation and drainage systems, graffiti removal, and associated appurtenances within the public right-of-ways or specific easements. Maintenance means the furnishing of services and materials for the ordinary and usual maintenance of landscaping and appurtenant facilities, including repair, removal or replacement of all or part of any of the landscaping or appurtenant facilities; providing for the satisfactory working condition, life, growth, health and beauty of the improvements, including cultivation, irrigation, trimming, spraying, fertilization and treating for disease or injury; the removal of trimmings, rubbish, debris and other solid waste. Services provided include furnishing of water and electricity for the irrigation and control of the landscaping, and all necessary service, operations, administration and maintenance required to keep the improvements in a healthy, vigorous and satisfactory condition.

Section 5 The maintenance, operation and servicing of the landscaping and appurtenant facilities shall be performed pursuant to the Act and the County Auditor of the County of Santa Clara shall enter on the County Assessment Roll opposite each parcel of land the amount of levy, and such levies shall be collected at the same time and in the same manner as the County taxes are collected. After collection by the County, the net amount of the levy shall be paid to the City Treasurer.

Section 6 The City Treasurer shall deposit all money representing assessments collected by the County of Santa Clara for the District to the credit of a fund for the Fox Hollow/Murphy Springs Landscape Assessment District, and such money shall be expended only for the maintenance, operation and servicing of the landscaping and appurtenant facilities as described in Section 4.

Section 7 The adoption of this Resolution constitutes the District levy for the Fiscal Year commencing July 1, 2003 and ending June 30, 2004.

Section 8 The City Clerk is hereby authorized and directed to file the levy with the County Auditor upon adoption of this Resolution.

Section 9 A certified copy of the levy shall be filed in the office of the City Clerk and open for public inspection.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 16th Day of July, 2003, by the following vote.

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

🔐 CERTIFICATION 🔐

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on July 16, 2003.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk



CITY COUNCIL STAFF REPORT

MEETING DATE: *July 16, 2003*

GENERAL PLAN AMENDMENT, GPA-01-05 AND ZONING AMENDMENT APPLICATION ZA-01-11: CLAYTON - MERLANO

RECOMMENDED ACTION(S):

1. Open/close Public Hearing
2. Approve Negative Declaration
3. Adopt Resolution approving the General Plan Amendment Request
4. Waive the First and Second Reading of the Zoning Ordinance
5. Introduce Ordinance

Agenda Item # 28

Prepared By:

Planning Manager

Approved By:

CDD Director

Submitted By:

City Manager

EXECUTIVE SUMMARY: The applicant is requesting approval of a General Plan amendment changing the land use designation on 4.44 acres on the east side of Clayton Avenue south of Peebles Avenue from Rural County to Single-Family Low, 1-3 dwelling units to the acre. Also requested is a zoning amendment to establish an R-1 (20,000) district on the property effective upon future annexation. The 4.44 acres are part of a larger parcel that also includes .75 acres on the west side of Clayton Avenue at its southern terminus. The .75 acre area is designated Single-Family Low, as are the other properties on the west side of Clayton Avenue.

The Planning Commission reviewed this application at their June 10, 2003 meeting and agreed with the staff finding that the proposed General Plan Amendment would be in the Public Interest. The change in designation would provide additional land for lower density residential development and would be compatible with surrounding uses. The proposed density would provide an appropriate transition to the nearby rural agricultural areas. The proposed amendment would also be consistent with other sections in the General Plan as outlined in the attached Planning Commission memorandum. The 4.44 acres are within the City's long term Urban Growth Boundary (UGB) and Urban Service Area. The UGB generally applies to areas that are designated for urban uses on the City's General Plan.

The applicant is also requesting approval of a Zoning Amendment rezoning the 4.44 acres on the east side of Clayton Avenue, and the .75 acre area on the west side of Clayton Avenue from County A-20 to City R-1 (20,000), Single-Family Low Residential. The zone change is consistent with the existing R-1 (20,000) district in the City to the north of the .75 acre area on the west side of Clayton Avenue and the R-1 (20,000) district on the east side of Clayton Avenue, north of Peebles Avenue. Future development would complete full street improvements on Clayton Avenue and would extend sanitary sewer lines to the area, thus allowing the existing ½ acre lots on the west side of Clayton to be removed from ground disposal septic tank systems. Long term, this will improve the quality of the ground water in the area.

At their June 10, 2003 meeting, the Planning Commission recommended approval of the General Plan Amendment and Zoning Amendment request by a 6 to 0 vote. A copy of the June 10 Commission minutes and June 10 Commission staff report are attached for the Council's reference.

FISCAL IMPACT: None. Filing fees were paid to the City to cover the cost of processing this application.

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING GENERAL PLAN AMENDMENT GPA 01-05: CLAYTON - MERLANO, DESIGNATING 5.19 ACRES LOCATED ON CLAYTON AVENUE SOUTH OF PEEBLES AVENUE AS SINGLE FAMILY LOW RESIDENTIAL, 1 TO 3 DWELLING UNITS TO THE ACRE. (APN 726-36-045 AND 726-37-006)

WHEREAS, the City Council of the City of Morgan Hill at their regular meeting of July 16, 2003, considered General Plan Amendment GPA 01-05, a request to designate a 5.19 acres as Single Family Low Residential; and

WHEREAS, the City Council received and considered testimony at a duly noticed public hearing; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MORGAN HILL HEREBY RESOLVES AS FOLLOWS:

SECTION 1. The General Plan amendment is consistent with the provisions of the General Plan. The proposal would be in the Public Interest in that the change in designation would provide additional land for lower density residential development, compatible with surrounding uses, and providing an appropriate transition to the nearby rural agricultural areas.

SECTION 2. The proposed amendment would be internally consistent with other sections in the General Plan. The 4.44 acres are within the City's long term Urban Growth Boundary (UGB) and Urban Service Area. The UGB is intended to apply only to areas that are designated for urban uses on the City's General Plan. Amending the General Plan to designate the property for residential use would therefore be consistent with the General Plan policy that only areas planned for urban uses be included in the UGB.

SECTION 3. The General Plan amendment request is also consistent with the following goals, policies and actions:

Land Use Goal 7: A variety of housing types and densities available to all residents.

Land Use Policy 7j: Support actions to maintain an adequate supply of single family housing throughout the community.

Action Item 8.3: Provide for an acceptable transition of lot size and density between adjacent residential neighborhoods. While the City has an adequate supply of developable residential property, designation of the subject property, Single-Family Low would increase the more limited supply of lower density residential properties. The Single-Family Low designation would also be compatible with adjacent residential properties to the west and would provide an acceptable transition to the adjoining rural agricultural area to the east.

SECTION 4. An Initial Study has been prepared for this project. A negative declaration will be filed.

SECTION 5. The General Plan shall be amended as shown in attached Exhibit "A".

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 16th Day of July, 2003, by the following vote.

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:

☞ CERTIFICATION ☞

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on July 16, 2003.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

ORDINANCE NO. , NEW SERIES

**AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF MORGAN HILL APPROVING A ZONING
AMENDMENT FROM COUNTY A-20 TO CITY R-1
(20,000) SINGLE-FAMILY LOW RESIDENTIAL FOR
APPLICATION ZA-01-11: CLAYTON - MERLANO (APN
726-36-045 AND 726-37-006)**

**THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAIN
AS FOLLOWS:**

- SECTION 1.** Establish an R-1 (20,000) pre-zoning designation for 5.19 acres of land located on Clayton Avenue, south of Peebles Avenue. The Single Family Low Residential zoning designation shall become affective upon annexation to the City of Morgan Hill.
- SECTION 2. INCORPORATING THE MAP BY REFERENCE.** There hereby is attached hereto and made a part of this ordinance, a zoning map entitled “Exhibit A” Map Showing Pre-zoning Lands of Merlano, Being a Part of Ordinance No. , New Series, which gives the boundaries of the described parcels of Land.
- SECTION 3. DESCRIPTION OF LAND IN PRE-ZONING.** There hereby is attached hereto and made a part of this ordinance a legal description entitled “Exhibit B” which gives the boundaries of the described parcel of land.
- SECTION 4. FINDING OF CONSISTENCY WITH THE GENERAL PLAN.** The City Council hereby finds that the amendment established by this ordinance as herein described is compatible with the goals, objectives, policies and land use designation of the General Plan of the City of Morgan Hill. The Council further finds that the proposed amendment is required in order to serve the public health, convenience and general welfare as provided by Section 18.62.010 of the Morgan Hill Municipal Code.
- SECTION 5.** An Initial Study has been prepared for this project. A Negative Declaration has been filed.
- SECTION 6.** Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.
- SECTION 7.** Effective Date; Publication. This Ordinance shall take effect from and after thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 16th Day of July 2003, and was finally adopted at a regular meeting of said Council on the 20th Day of August 2003, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

ATTEST:

APPROVED:

Irma Torrez, City Clerk

Dennis Kennedy, Mayor

∞ CERTIFICATE OF THE CITY CLERK ∞

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. , New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the 20th Day of August, 2003.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE:_____

IRMA TORREZ, City Clerk

EXHIBIT B

The following properties as described below shall be pre-zoned Single Family Low Residential, R-1 (20,000):

All that real property situated in the County of Santa Clara, State of California, being more particularly described as follows:

BEGINNING at the centerline intersection of Peebles Avenue and Clayton Avenue, as said Avenues are shown upon that Map entitled 'Peebles Tract', which Map was recorded May 13, 1887 in Book 'B' of Maps at Page 63, Santa Clara County Records, and running thence along the centerline of Clayton Avenue, South 39°30'00" East, 769.95 feet to the northern most corner of Lot 60 of said Map; thence leaving said centerline and running along the northwestern boundary line thereof, South 51°55'00" West, 250.72 feet to the corner common to Lots 44, 45, 59 and 60, as said Lots are shown upon that aforementioned Map; thence leaving said common corner and running along the boundary line common to said Lot 45 and Lot 60, South 39°30'00" East 142.63 feet to the southern most corner of said Lot 60; thence leaving said common boundary line and running along the southeasterly boundary line of said Lot 60, North 51°02'41" East, 250.66 feet to the eastern most corner thereof, being coincident with the southern most corner of said property, on the centerline of said Clayton Avenue; thence leaving said centerline and running along the southeasterly boundary line of said land of property, North 51°02'41" East, 215.00 feet; thence leaving the said southeasterly boundary line of said property and running parallel with said centerline of Clayton Avenue, North 39°30'00" West 905.49 feet to a point in the centerline of said Peebles Avenue; thence running along the said centerline of Peebles Avenue, South 51°55'00" West 215.07 feet to the point of beginning and containing therein 5.19 gross acres more or less.



CITY COUNCIL STAFF REPORT

MEETING DATE: July 16, 2003

General Plan Amendment Application: GPA 02-08: Monterey – Pinn Bros.

RECOMMENDED ACTION(S):

1. Open/close Public Hearing.
2. Approve mitigated negative declaration
3. Motion to adopt resolution denying General Plan Amendment.
4. Adopt resolution denying General Plan Amendment.
5. Motion to adopt resolution approving adjustment to boundary between Multi-Family Medium and Commercial General Plan Land Use designations.
6. Adopt resolution approving adjustment of boundary.

EXECUTIVE SUMMARY:

The applicant is requesting amendment of the General Plan Land Use designation from Multi-Family Medium to Multi-Family Low on approximately 7.5 acres of a 9.68-acre project site. The applicant is also requesting that the boundary between the Multi-Family Medium and Commercial General Plan Land Use designations on the project site be shifted approximately 50 feet east of its present location.

The Planning Commission considered the General Plan Amendment request at the regular meetings of June 10th and June 24th, 2003. At the June 24th meeting, the Commission recommended denial of the General Plan Amendment request and approval of the eastward shift in the boundary between the Multi-Family Medium and Commercial General Plan Land Use designations.

Approval of the seven-acre General Plan Amendment would reduce the available inventory of vacant R3 zoned areas to 23 acres. This would violate the City's General Plan Housing Element Action 1b-1 by reducing the available R3 inventory below the required 25-acre minimum. In addition, the Courthouse site is currently zoned R3, however it is not available for housing construction.

Considering the impact that the proposed General Plan Amendment would have on available potential sites for higher density housing, the Planning Commission recommends City Council denial of the proposed General Plan Amendment and approval of the 50-foot eastward shift in the boundary between the Multi-Family Medium and Commercial General Plan Land Use designations. Should the Council wish to approve the General Plan Amendment, a resolution with the appropriate findings will be provided at the next meeting.

Copies of the staff report and minutes from the June 10th and June 24th Planning Commission meeting are attached for the Council's reference.

FISCAL IMPACT: None. Filing fees were paid to the City to cover the cost of processing this application.

Agenda Item # 29

Prepared By:

Contract Planner

Approved By:

**Community
Development Director**

Submitted By:

City Manager

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL DENYING AMENDMENT OF THE GENERAL PLAN DESIGNATION FROM MULTI-FAMILY MEDIUM TO MULTI-FAMILY LOW FOR THE 7.5-ACRE AREA LOCATED ON THE WEST SIDE OF MONTEREY ROAD, NORTH OF WATSONVILLE ROAD AND SOUTH OF WEST EDMUNDSON AVENUE. (APNs 767-23-025, -002)

WHEREAS, such request was considered by the City Council at their regular meeting of July 16, 2003, at which time the City Council denied the requested General Plan Amendment; and

WHEREAS, testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials have been considered in the review process.

NOW, THEREFORE, THE MORGAN HILL CITY COUNCIL DOES RESOLVE AS FOLLOWS:

SECTION 1. The City Council finds that the proposed General Plan Amendment is inconsistent with the provisions of the General Plan as outlined in Section 2 of this Resolution.

SECTION 2. An environmental initial study has been prepared for this application and has been found complete, correct and in substantial compliance with the requirements of California Environmental Quality Act. A Mitigated Negative Declaration will be filed.

SECTION 3. The City Council hereby denies the requested General Plan Amendment based on the following Finding:

A. The State Department of Housing and Community Development recognizes the R3 zoning designation as 'affordable housing' and requires the City to maintain an adequate inventory of affordable housing to meet the requirements of the General Plan Housing Element. Approval of the seven-acre General Plan Amendment would reduce the available inventory of vacant R3 zoned areas to 23 acres, thus violating Action 1b-1 of the City's General Plan Housing Element by reducing the available Multi-Family Medium inventory below the required 25-acre minimum.

SECTION 4. The subject property is ideally situated for future multi-family housing being located in close proximity to schools, parks, shopping areas and public transit.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 16th Day of July, 2003, by the following vote.

AYES: **COUNCIL MEMBERS:**
NOES: **COUNCIL MEMBERS:**
ABSTAIN: **COUNCIL MEMBERS:**
ABSENT: **COUNCIL MEMBERS:**

🦉 CERTIFICATION 🦉

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on July 16, 2003.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A 50-FOOT EASTWARD SHIFT IN THE BOUNDARY BETWEEN THE EXISTING MULTI-FAMILY MEDIUM AND COMMERCIAL GENERAL PLAN DESIGNATIONS FOR THE AREA LOCATED ON THE WEST SIDE OF MONTEREY ROAD, NORTH OF WATSONVILLE ROAD AND SOUTH OF WEST EDMUNDSON AVENUE. (APN 767-23-001)

WHEREAS, such request was considered by the City Council at their regular meeting of July 16, 2003, at which time the City Council approved the requested 50-foot eastward shift in the boundary between the existing land use designations of APN 767-23-001; and

WHEREAS, testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials have been considered in the review process.

NOW, THEREFORE, THE MORGAN HILL CITY COUNCIL DOES RESOLVE AS FOLLOWS:

SECTION 1. The City Council finds that the proposed boundary shift is consistent with the provisions of the General Plan.

SECTION 2. An environmental initial study has been prepared for this application and has been found complete, correct and in substantial compliance with the requirements of California Environmental Quality Act. A Mitigated Negative Declaration will be filed.

SECTION 3. The City Council hereby approves the 50-foot eastward shift of the boundary between the existing Multi-Family Medium and Commercial General Plan Land Use designations, as indicated on the attached Exhibit “A”, based on the following Finding:

A. General Plan Housing Element Action 1b-1 directs the City to “accommodate additional R-3 zoning”. Inclusion of the one-acre portion of APN 767-23-001 in the Multi-Family Medium designated area would represent a logical adjustment to the boundary for this purpose.

SECTION 4. The subject property is ideally situated for future multi-family housing being located in close proximity to schools, parks, shopping areas and public transit.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 16th Day of July, 2003, by the following vote.

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:

🦉 CERTIFICATION 🦉

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on July 16, 2003.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk



CITY COUNCIL STAFF REPORT

MEETING DATE: *July 16, 2003*

GENERAL PLAN AMENDMENT, GPA-03-01/ANNEXATION, ANX-03-03/URBAN GROWTH BOUNDARY/URBAN SERVICE AREA/SPHERE OF INFLUENCE, USA-03-04/ZONING AMENDMENT, ZA-03-05: MALAGUERRA-CITY OF MORGAN HILL BOYS RANCH WATER TANK.

RECOMMENDED ACTION(S):

1. Open/close Public Hearing.
2. Adopt Resolution approving General Plan and Urban Growth Boundary Amendment.
3. Adopt Resolution approving Sphere of Influence Amendment.
4. Adopt Resolution approving Urban Service Area Amendment
5. Waive the First and Second Reading of Ordinance for Prezoning.
6. Introduce Ordinance.
7. Adopt Resolution approving Annexation

EXECUTIVE SUMMARY: A request to reorganize the City of Morgan Hill and City of San Jose boundaries to include three parcels into the City of Morgan Hill totaling 2.59 acres located on the northerly boundary of the Boys Ranch Correctional facility, on the north side of Malaguerra Ave. To reorganize the boundaries, Sphere of Influence SOI, Urban Growth Boundary UGB, Urban Service Area USA and annexation applications are necessary. A General Plan land use designation of Open Space and zoning designation of Open Space will also be needed for the parcels added to the City boundaries. The requested boundary adjustments and annexation are necessary for the completion of the Boy's Ranch Water tank expansion project which is required for the provision of adequate water service during peak usage periods and for emergency situations. The construction of a second tank cannot be completed over the existing property lines that traverse the 2.59 acre water tank site. The City owns all three parcels that make up the 2.59 acre site but cannot merge the parcels together, until all of the parcels are within the same jurisdiction (see parcels 3, 4 & 5 on attached map). All three parcels need to be included within the City's Sphere of Influence. Parcel 5 needs to be included within the City's Urban Growth Boundary. A General plan designation is needed on parcel 5 and a prezone designation is needed on parcels 3 & 5 in order to complete the annexation. Once parcels 3 & 5 are annexed they can be merged with parcel 4 to allow for the construction of the Boy's Ranch Water Tank No. 3. To complete the water tank project the following actions are recommended:

1. Amend the SOI with the City of San Jose to include parcels 3, 4, & 5.
2. Amend the Urban Growth boundary to include parcel 5.
3. Apply a General Plan Open Space land use designation to parcel 5.
4. Include parcels 3, 4 & 5 in the City's USA.
5. Prezone parcels 3 & 5 Open Space
6. Annex parcels 3 & 5 to the City of Morgan Hill.

A formal letter of request has been sent to the City of San Jose requesting the City's concurrence of the proposed SOI amendment and detachment of parcel 5. The letter of request will be agendized for action by the City of San Jose City Council. Amendment of the SOI and annexation of parcel 5, will be contingent upon the City of San Jose's consent to amend their boundary. A copy of the letter to the City of San Jose is attached.

The Planning Commission considered the above request at their June 10 meeting and unanimously voted to recommend approval of each requested action. A copy of the June 10 staff report and minutes are attached for the Council's reference. The June 10 Planning Commission staff report contains a more detailed discussion of the proposed boundary adjustments, prezone and General Plan amendment.

FISCAL IMPACT: No budget adjustment required.

Agenda Item # 30

Prepared By:

Senior Planner

Approved By:

Director of Community Development

Submitted By:

City Manager

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING GENERAL PLAN AMENDMENT GPA 03-01: MALAGUERRA-CITY OF MORGAN HILL BOYS RANCH WATER TANK NO. 3, DESIGNATING A 1.22 ACRE PARCEL LOCATED ON THE NORTHERLY BOUNDARY OF THE BOY RANCH FACILITY ON THE NORTH SIDE OF MALAGUERRA AVE., AS OPEN SPACE AND INCLUDING THE AREA WITHIN THE URBAN GROWTH BOUNDARY. (APN 728-35-05)

WHEREAS, the City Council of the City of Morgan Hill at their regular meeting of July 16, 2003, considered General Plan Amendment GPA 03-01, a request to designate a 1.22 acres, as Open Space and to include the 1.22 acre area into the Urban Growth Boundary; and

WHEREAS, the City Council received and considered testimony at a duly noticed public hearing; and

NOW, THEREFORE, THE MORGAN HILL CITY COUNCIL HEREBY RESOLVES AS FOLLOWS:

- SECTION 1.** The General Plan amendment is consistent with the provisions of the General Plan specifically General Plan Goal 21, to provide effective management of water resources, and General Plan policies 21 a & b to efficiently manage the supply and use of water and to ensure development does not exceed supply.
- SECTION 2.** The Urban Growth Boundary adjustment is necessary as minor adjust under very unique circumstances. The adjustment of the Sphere is deemed necessary to correct jurisdictional boundaries that preclude the development Boy's Ranch Water Tank No. 3.
- SECTION 3.** An Expanded Initial Study has been prepared for the water tank project. A mitigated negative declaration has been filed. An addendum has been prepared for the boundary adjustment actions.
- SECTION 4.** The land use designation on the parcels shall not be changed unless done in accordance with Municipal Code section 18.78.060 C.
- SECTION 5.** The inclusion of the parcel within the Urban Growth Boundary shall only be considered upon the concurrence of the Sphere of Influence adjustment by the City of San Jose.
- SECTION 6.** The General Plan shall be amended as shown in attached Exhibit "A".

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 16th Day of July, 2003, by the following vote.

AYES: **COUNCIL MEMBERS:**
NOES: **COUNCIL MEMBERS:**
ABSTAIN: **COUNCIL MEMBERS:**
ABSENT: **COUNCIL MEMBERS:**

🦉 CERTIFICATION 🦉

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA,
do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on July 16, 2003.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING APPLICATION SOI 03-04: MALAGUERRA-CITY OF MORGAN HILL BOY'S RANCH WATER TANK NO. 3 ALLOWING FOR THE INCLUSION OF 2.59 ACRES LOCATED ON THE NORTHERLY BOUNDARY OF THE BOY RANCH FACILITY ON THE NORTH SIDE OF MALAGUERRA AVE., INTO THE CITY OF MORGAN HILL SPHERE OF INFLUENCE. (APNS 728-35-03, 04 & 05)

WHEREAS, the Morgan Hill City Council recognizes the City's obligation to provide adequate water service, and adequate water storage capacity to serve the residents of Morgan Hill in emergency situations; and

WHEREAS, the City Council recognizes the adjustment of the Sphere of Influence is necessary in order to complete the water tank project which is necessary to serve the public health and safety; and

WHEREAS, such request was considered by the City Council at their regular meeting of July 16, 2003 at which time the City Council approved of Sphere of Influence application SOI 03-04: Malaguerra-City of Morgan Hill; and

WHEREAS, testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials have been considered in the review process.

NOW, THEREFORE, THE MORGAN HILL CITY COUNCIL DOES RESOLVE AS FOLLOWS:

SECTION 1. The City Council finds that the proposed inclusion of territory into the Sphere of Influence is consistent with the General Plan Goal 21, to provide effective management of water resources, and General Plan policies 21 a & b to efficiently manage the supply and use of water and to ensure development does not exceed supply.

SECTION 2. The City Council finds that this Sphere of Influence adjustment is a unique circumstance. The adjustment of the Sphere is deemed necessary to correct jurisdictional boundaries that preclude the development Boy's Ranch Water Tank No. 3.

SECTION 3. The City Council finds that the inclusion of these parcels within the Sphere of Influence shall only be considered upon the concurrence of the Sphere of Influence adjustment by the City of San Jose.

SECTION 4. The Morgan Hill Sphere of Influence shall be adjusted to include the area shown in the attached Exhibit A.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 16th Day of July, 2003, by the following vote.

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

🏛️ CERTIFICATION 🏛️

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on July 16, 2003.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING APPLICATION USA-03-04: MALAGUERRA-CITY OF MORGAN HILL BOYS RANCH WATER TANK #3 ALLOWING FOR THE INCLUSION OF 2.59 ACRES LOCATED ON THE NORTHERLY BOUNDARY OF THE BOY RANCH FACILITY ON THE NORTH SIDE OF MALAGUERRA AVE., INTO THE CITY'S URBAN SERVICE AREA. (APNS 728-35-03, 04 & 05)

WHEREAS, the Morgan Hill City Council has adopted a policy defining "Desirable Infill" as specified in Morgan Hill Municipal Code Section 18.78.070; and

WHEREAS, the City Council finds this amendment is an exception to the desirable infill policy base on the finding that the boundary adjustment is minor and necessary to provide adequate water service, and adequate water storage capacity to serve the residents of Morgan Hill in emergency situations; and

WHEREAS, the Urban Service Area Boundary adjustment is deemed necessary to correct jurisdictional boundaries that preclude the development Boy's Ranch Water Tank No. 3

WHEREAS, such request was considered by the City Council at their regular meeting of July 16, 2003 at which time the City Council approved Urban Service Boundary application USA 03-04: Malaguerra-City of Morgan Hill Boy's Ranch Water Tank; and

WHEREAS, testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials have been considered in the review process.

NOW, THEREFORE, THE MORGAN HILL CITY COUNCIL DOES RESOLVE AS FOLLOWS:

SECTION 1. The City Council finds that the proposed inclusion of territory into the Urban Service Areas is consistent with the General Plan.

SECTION 2. The City Council finds that the inclusion of the property with the Urban Service Area boundary will further the City's fulfillment of its General Plan goals to provide efficient water service and ensure development does not exceed supply.

SECTION 3. It is hereby requested that the Local Agency Formation Commission consider readjustment of the Morgan Hill Urban Service boundary to include the area shown in the attached Exhibit A.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 16th Day of July, 2003, by the following vote.

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

🦉 CERTIFICATION 🦉

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on July 16, 2003.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

ORDINANCE NO. , NEW SERIES

**AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF MORGAN HILL PRE-ZONING 2.01 ACRES,
FROM CITY OF SAN JOSE R-1-1 AND COUNTY A-20 TO
OPEN SPACE OS, APPLICATION ZA-03-05:
MALAGUERRA-CITY OF MORGAN HILL (APNS 728-35-
03 & 05)**

**THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES
HEREBY ORDAINS AS FOLLOWS:**

SECTION 1. Establish an Open Space pre-zoning designation for 2.01 acres of land located on the northerly boundary of the Boys Ranch Correctional facility on the north side of Malaguerra Ave. The Open Space zoning designation shall become affective upon annexation to the City of Morgan Hill.

SECTION 2. INCORPORATING THE MAP BY REFERENCE. There hereby is attached hereto and made a part of this ordinance, a zoning map entitled “Exhibit A” Map Showing Pre-zoning Lands of City of Morgan Hill Being a Part of Ordinance No. , New Series, which gives the boundaries of the described parcels of Land.

SECTION 3. DESCRIPTION OF LAND IN PRE-ZONING. There hereby is attached hereto and made a part of this ordinance a legal description entitled “Exhibit B” which gives the boundaries of the described parcels of land.

SECTION 4. FINDING OF CONSISTENCY WITH THE GENERAL PLAN. The City Council hereby finds that the amendment established by this ordinance as herein described is compatible with the goals, objectives, policies and land use designation of the General Plan of the City of Morgan Hill. The Council further finds that the proposed amendment is required in order to serve the public health, convenience and general welfare as provided by Section 18.62.010 of the Morgan Hill Municipal Code.

SECTION 5. An Expanded Initial Study has been prepared for this project as part of a separate application for the water tank project. A Mitigated Negative Declaration has been filed. An addendum has been prepared for the boundary adjustment and pre-zone actions.

SECTION 6. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 7. Effective Date; Publication. This Ordinance shall take effect from and after thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 16th Day of July 2003, and was finally adopted at a regular meeting of said Council on the 20th Day of August 2003, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

ATTEST:

APPROVED:

Irma Torrez, City Clerk

Dennis Kennedy, Mayor

∞ CERTIFICATE OF THE CITY CLERK ∞

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. , New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the 20th Day of August, 2003.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE:_____

IRMA TORREZ, City Clerk

EXHIBIT B

The following properties as described below shall be pre-zoned Open Space, OS:

All that real property situated in the County of Santa Clara, State of California, being more particularly described as follows:

Beginning at a point lying on the existing northeasterly city limits line of the City of Morgan Hill as established by resolution No. 291 "Cocharane Road Annexation No. 2" as adopted May 9, 1960, said point being South 68°24' 00" East 67.00 feet from the most easterly corner of that certain 1.00 acre parcel of land conveyed to the Town of Morgan Hill by deed recorded December 11, 1911 in Book 377 of Deeds, at Page 298, Santa Clara County Records; thence leaving said City limits line North 21°36" 00" East 300.00 feet; thence along a line parallel to said City limits line North 68°24" 00" West 374.00 feet; thence South 21°36"00" West 3000.00 feet to said City limits line; thence along said City limits line South 68°24"00" East 374.00 feet to the Point of beginning.

Commencing at the northeast corner of Lot 5 as shown on the Record of Survey map recorded in Book 32 of Maps, at Page 29, Santa Clara County Records; thence along the prolongation of the northeasterly line of said of 5 South 68°24'00" East 469.64 feet; thence North 30° 34'06"East 36.74 feet; thence North 11°55'54" West 136.17 feet to the True point of beginning; thence south 78°25'54" East 22.37 feet; thence North 20°26'26" East 122.00 feet; thence North 84°25'34" West 233.86 feet; thence South 19°56'03" West 97.15 feet; thence South 78°25'54" East 205.53 feet to the True Point of beginning.

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING THE ALTERATION OF BOUNDARIES OF THE CITY OF MORGAN HILL BY DETACHMENT OF A CERTAIN TERRITORY APN 728-35-05, FROM THE CITY OF SAN JOSE AND ANNEXATION OF CERTAIN TERRITORY (APNs 728-35-03 & 05) DESIGNATED “JORGENSEN SPRINGS NO. 2.” AND THE WITHDRAWAL OF SAID TERRITORY (.80 ACRES, APN 728-35-03) FROM THE SOUTH SANTA CLARA COUNTY FIRE PROTECTION DISTRICT.

WHEREAS, a written petition has been filed in the office of the City Clerk of the City of Morgan Hill in accordance with the provisions of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000: annexing into the City of Morgan Hill certain territory located in the County of Santa Clara, State of California, hereinafter more particularly described; and

WHEREAS, said petition has been signed and consented to by the owners of the land in the territory proposed to be annexed; and

WHEREAS, Section 56757 of the California Government Code states that the Local Agency Formation Commission shall not review an annexation proposal to any City in Santa Clara County of unincorporated territory which is within the urban service area of the city if initiated by resolution of the legislative body and therefore the City Council of the City of Morgan Hill is now the conducting authority for said annexation; and

WHEREAS, Government Code Section 56663(a) provides that if a petition for annexation is signed by all owners of land within the affected territory, the City Council may approve or disapprove the annexation without public hearing; and

WHEREAS, evidence was presented to the City Council;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MORGAN HILL AS FOLLOWS:

SECTION 1: That the City Council is the conducting authority pursuant to Section 56757 of the Government Code for the annexation of property designated “Jorgenson Springs No. 2,” more particularly described in Exhibits “A and B”;

SECTION 2: The territory described is hereby withdrawn from the South Santa Clara County Fire Protection District in accordance with Section 13952 of the California Health and Safety Code (APN 728-35-03).

SECTION 3: The following findings are made by the City Council of the City of Morgan Hill:

- a. That said territory is uninhabited and comprises approximately 2.01 acres.
- b. That the annexation is consistent with the orderly annexation of territory within the City's urban service area.
- c. An expanded environmental initial study has been prepared for the water tank project and has been found complete, correct and in substantial compliance with the requirements of California Environmental Quality Act. A mitigated Negative Declaration has been filed. An addendum has been prepared for the boundary adjustment actions.
- d. The City Council on July 16, 2003 enacted Ordinance No. _____ pre-zoning the subject territory with an Open Space zoning designation.
- e. The inclusion of these parcels within the City limits shall only be considered upon the concurrence of the Sphere of Influence adjustment and detachment of APN 728-35-05 by the City of San Jose.
- f. The annexation of this territory is contingent upon the within the Local Agency Formation Commission of Santa Clara County inclusion of the territory into the City's Urban Service Area Boundary and Sphere of Influence.
- g. That the County Surveyor has determined the boundaries of the proposed annexation to be definite and certain, and in compliance with the Commission's road annexation policies.
- h. That the proposed annexation does not create islands or areas in which it would be difficult to provide municipal services.
- i. That the proposed annexation does not split lines of assessment or ownership.
- j. That the proposed annexation is consistent with the City's General Plan.
- k. That the territory to be annexed is contiguous to existing City limits.

SECTION 4: The Council finds that all property owners and registered voters have been provided written notice of this proceeding and no opposition has been received.

SECTION 5: Said annexation is hereby ordered without any further protest proceedings pursuant to Sections 56663(c) and 56663(d) of the California Government Code.

BE IT FURTHER RESOLVED that upon completion of these reorganization proceedings, the territory (APN 728-35-03) annexed will be detached from the unincorporated portion of the County of Santa Clara.

BE IT FURTHER RESOLVED that upon completion of these reorganization proceedings, the territory (APN 728-35-05) annexed will be detached from the incorporated portion of the City of San Jose.

BE IT FURTHER RESOLVED that upon completion of these reorganization proceedings, the territory annexed will be taxed on the regular county assessment roll, including taxes for existing bonded indebtedness.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 16th Day of July, 2003, by the following vote.

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

⌘ CERTIFICATION ⌘

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on July 16, 2003.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk



CITY COUNCIL STAFF REPORT

MEETING DATE: *July 16, 2003*

NEW MORGAN HILL POLICE FACILITY

Agenda Item # 31

Prepared By:

BAHS Director

Submitted By:

City Manager

RECOMMENDED ACTION(S): 1) Authorize the City Manager to execute, make modifications as needed, subject to the City Attorney's review, and take actions as necessary to execute the lease and purchase agreements, and architectural and construction management services agreements to lease, acquire and construct tenant improvements at 16200 Vineyard Blvd. and 2) Direct staff to proceed with arranging for the financing for the facility.

EXECUTIVE SUMMARY: In February 2003, the City Council directed staff to begin discussions with The Nicholson Co. regarding the acquisition and improvement of 16200 Vineyard for a police facility. We have negotiated a structure which allows the City to publicly bid out the tenant improvements, as required by law, while providing for a price guarantee that the tenant improvement costs will not exceed \$1.813M. This structure requires the City to enter into a purchase agreement, lease agreement, and professional services agreements for both architectural and construction management services. The key points of the transaction are as follows:

Purchase Agreement: The purchase price is \$8,213,000 which includes \$1,813,000 for the tenant improvements (TI's) and \$6.4M for the negotiated price. The City will not close on the property until the TI's are accepted and the Certificate of Participation (COPs) proceeds are received by the City. The purchase price will be reduced by the final costs of the TI's. For example, should the costs of the TI's exceed \$1.813M the higher costs will be applied against the purchase price. However, the lowest the amount that can be applied to the purchase price is \$1.813 M which acts as the price guarantee for the TI's. Attachments A and B show the floorplan and TI's budget, respectively.

Lease Agreement: During the escrow period, the City will lease the property for \$1/month plus utilities. This structure allows us to construct the TI's without bearing the costs of owning the property. However, thirty days after the acceptance of the TI's, the lease rate would convert to a market rate of \$73,000/month for ten years should the City decide not to purchase the property. Attachments C and D contains the purchase and lease agreements, respectively.

Professional Services Agreements: The City will enter into agreements with The Nicholson Co. to provide architectural and construction management services at a cost of \$400,000. The construction management agreement provides the mechanism for the price guarantee by stipulating the maximum cost for the tenant improvements to be constructed. Attachments E and F contains the scope of work for the architectural and construction management services, respectively.

Other Key Points: The facility has about 6,200 sq. ft. available for lease for other non-police related uses. In the event the City does not purchase or lease the facility, the City would be required to return the building to its original condition prior to constructing the tenant improvements.

FISCAL IMPACT: The total project costs are estimated at \$9.45M: \$6.4M for the purchase price, \$1.813M for the tenant improvements, \$.4 M for the professional services, and \$.837M for FFE and soft cost contingency. The TI's will be paid for by the sale of the library land from the City to the Agency and police impact fees. The financing schedule, issuance costs, and agreements for the financial advisor and bond counsel will be brought to the City Council at a future meeting for consideration.



CITY COUNCIL STAFF REPORT

MEETING DATE: *July 16, 2003*

GENERAL CONTRACTOR PACKAGE BID RESULTS – MORGAN HILL AQUATICS COMPLEX

RECOMMENDED ACTION(S):

Staff recommendation will be presented at or before our July 16, 2003 meeting.

EXECUTIVE SUMMARY:

This past April, City Council authorized staff to advertise for public bids on the Aquatics Complex project. The contractor bids were broken into two packages (pools and General) because of the accelerated project schedule as discussed at the Council meeting of April 16, 2003.

Four bids were received for the pool package only on May 27, 2003. Council subsequently awarded a contract for shop drawing preparation and submittals to California Commercial Pools, Inc. at their June 4, 2003 meeting. The bid period for the General Contractor package began on June 11, 2003 and three bids were received on July 8, 2003 as shown on the attached spreadsheet. The low bid is approximately 9% (\$800,000+/-) over the adopted project budget for base bid construction work only. This amount includes a 5% contingency. If Council were to approve all of the bid alternates, the project would be approximately \$2,000,000 (24%) over the construction budget including a 4% contingency.

Staff is meeting on Monday (7/14/03) with the Aquatics subcommittee and the design team/construction consultants to review and analyze options for award of this project. We anticipate that we will report back to Council at or before the meeting of July 16th with a recommendation to award the contract to the low bidder (Gonsalves & Stronk). This assumes there is an opportunity for value engineering to reduce costs as well as opportunity for some additional funding. If Council chooses to accept the recommendation, staff would also be asking for approval of various professional construction services agreements. If Council chooses to postpone the award, the scheduled grand opening date of May 28, 2004 would be compromised.

FISCAL IMPACT: The fiscal impact of the staff recommended action will also be presented at or before the July 16, 2003 meeting.

Agenda Item # 32

Prepared By:

Project Manager

Approved By:

Public Works Director

Submitted By:

City Manager



CITY COUNCIL STAFF REPORT

MEETING DATE: *July 16, 2003*

HOUSING TYPE DISTRIBUTION AND TERM FOR 2003-04 MEASURE

"P" COMPETITION (FY 2005-06 BUILDING ALLOTMENT)

RECOMMENDED ACTION(S):

Adopt Resolution approving the total building allotment and distribution and authorizing Measure P competitions to be conducted during fiscal year 2003-04 for the balance of the fiscal year 2005-06 building allotment.

EXECUTIVE SUMMARY: In June/July of each year preceding a Measure P competition, the City Council is required to establish the total number and type of housing units to be awarded for each type of housing in the next Measure P competition.

The Planning Commission recommends the City Council authorize a Measure P competition to be held for the balance of the fiscal year 2005-06 building allocation. Last year, the City Council authorized a two-year Measure P Open/Market competition to award building allocations to new larger project developments and to on-going larger project developments such as Coyote Estates and Central Park developments. The balance of the fiscal year 2005-06 building allotment, not awarded this year, would be reserved for small projects in the Open/Market competition, and for the Affordable and Micro Project Competitions. The remaining building allotment for fiscal year 2005-06 consists of 51 dwelling units. The Commission recommends the allotment be distributed as follows: **40** units would be reserved for projects that are 100% affordable, **4** units, would be reserved for a micro project competition, and **7** units, would be reserved for new small projects in the open/market competition.

In recent competitions, the total building allotment for the fiscal year has been **increased or decreased** based on the following year's January 1 total population and persons per household estimates for the City as determined by the DOF. As in prior years, it is recommended that any increase in the authorized building allotment be distributed to the set-aside for the Open/Market competition. However, if fewer allocations would be available based on the adjusted population numbers, it is recommended the total distribution remain as recommended above. This would provide some certainty that a minimum number of allocations will be available at the end of the competition process.

In March 2004, Morgan Hill residents may be asked to approve amendments to the City's Residential Development Control System. Should these amendments be approved, the total building allotment for fiscal year 2005-06 would increase from 182 to approximately 230 units. Staff recommends that any increase in the total building allocation (approximately 48 units) be awarded as a supplemental allotment to those projects that were awarded a building allocation for fiscal year 2004-05 and 2005-06 in the most recent competitions. The attached Planning Commission memorandum provides additional background information.

The Commission voted 6-0 to recommend approval of the attached housing distribution by the City Council. Staff supports the Commission's recommendation.

FISCAL IMPACT: No budget adjustment required.

Agenda Item # 33

Prepared By:

Planning Manager

Approved By:

Community
Development Director

Submitted By:

City Manager

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING THE DISTRIBUTION AND TERM FOR THE MEASURE "P" COMPETITIONS TO BE CONDUCTED DURING FISCAL YEAR 2003-2004.

WHEREAS, a building allotment under the City's Residential Development Control System would be available in the 2005-06 fiscal year; and

WHEREAS, in the month of June or July, preceding an allotment year, the City Council is required to determine the total number and distribution of building allotments; and

WHEREAS, the City Council has reviewed recommendations contained in the July 8, 2003 staff report on this item, and has determined that the total number and recommended distribution of building allotment contained therein, as amended, is consistent with the General Plan and the City Code requirements under Chapter 18.78 of the Morgan Hill Municipal Code; and

WHEREAS, testimony received at the July 16, 2003 public meeting has also been considered in the review process;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MORGAN HILL THAT:

SECTION 1: Pursuant to Sections 18.78.030 and 18.78.184 of the Morgan Hill Municipal Code, the City Council authorizes that separate Affordable, Micro and Open/Market Measure P competitions to be conducted during the current fiscal year.

SECTION 2: Pursuant to Section 18.78.030 (C) of the Municipal Code, the Commission recommends:

A. A portion of the building allocation shall be reserved for affordable, micro and small project competitions as outlined in the attached Exhibit "A."

B. The distribution of allotment as set forth in Exhibit "A" may be adjusted by the Planning Commission as deemed necessary to respond to changes in the housing market (change in the build-out rate for existing projects, increase demand for particular housing types, etc.).

C. The distribution of allotment by housing type and number of dwelling units may be modified by the Planning Commission at time of award of allotment based on demand for a particular unit type as provided in the attached Exhibit.

D. The total building allotment for Fiscal Year 2005-06 may be increased based on the January 1, 2004 total population and persons per household estimates for Morgan Hill as determined by the State Department of Finance. Any increase in the authorized building allotment would be distributed to the set-aside for the Open/Market competition.

E. The Measure P competitions authorized by this Resolution shall be for the purpose of awarding the balance of the Fiscal Year 2005-06 allotment. The Planning Commission may, on

Resolution No.

Page – 2 –

a case by case basis, consider a limited allocation into FY 2006-07 for projects in the Micro, Affordable and Small Project set-aside categories needed to complete a project.

F. In March 2004, Morgan Hill voters will be asked to approve amendments to the City's Residential Development Control System. Should these amendments be approved, the total building allotment for fiscal year 2005-06 would increase to approximately 230 units. Any increase in the total building allocation be awarded as a supplemental allotment to those projects that were awarded a building allocation for fiscal year 2004-05 and 2005-06 in the most recent Measure P competitions.

SECTION 3: The filing deadline for the Affordable, Small Project Open/Market and Micro competitions shall be November 3, 2003.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 16th Day of July, 2003, by the following vote.

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

🦉 CERTIFICATION 🦉

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on July 16, 2003.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

Exhibit “A”

Fiscal Year 2005-06 Allocation:

<u>Allotment Category</u>	<u>Percent</u>	<u>Units</u>
Partially Completed Projects	0%	0
Affordable Competition *	22%	40
Micro Competition **	5%	9 (5 units already allocated)
Open/Market Competition ***	73%	133 (126 units already allocated)
Total	100%	182

* Allotments may be awarded to projects without regard to housing types, provided that at least 20% of all allotments in the affordable competition are for multi-family dwellings and at least 30% of all multi-family dwellings are rental units.

** Allotments may be awarded to projects without regard to housing types.

*** The balance of the Open/Market set-aside shall be reserved for small project (project that are 15 units or less at total build out. Given the small number of allocations remaining for this competition, the building allotment shall be awarded to small projects without regard to housing types.



REDEVELOPMENT AGENCY STAFF REPORT

MEETING DATE: July 16, 2003

CHAMBER OF COMMERCE ANNUAL REPORT

RECOMMENDED ACTION(S): Receive report from the Chamber of Commerce.

EXECUTIVE SUMMARY:

The Morgan Hill Chamber of Commerce has been providing supplementary business development services to the City/Redevelopment Agency for the past nine years. These services cover the areas of Economic Development, Downtown, and Tourism. City staff could not provide these additional services without adversely impacting existing workload and programs. The FY 02-03 contract was for \$125,000, which included expanded services for business retention and attraction. As a condition of the extra funding, the Chamber was required to make a year end report on its accomplishments, which included:

Economic Development Activities

- Restructure the economic development committee;
- Attend educational conference on Economic Development;
- Create a vibrant economic development section of the Chamber's website including a real estate search function; and
- Plan the Quarterly Business Forum.

Business Retention

- Develop and conduct a business retention survey.

Business Attraction

- Participate with City in joint business attraction events and specified trade shows;
- Attend South County Commercial Brokers meetings; and
- Plan 2nd Morgan Hill Site Visit and Forum for brokers and developers.

Downtown Activities

- Participate as a board member of the Morgan Hill Downtown Association (MHDA) and assist with MHDA's activities.

Tourism Activities

- Restructure the tourism committee;
- Create a tourism section of the Chamber's website; and
- Work cooperatively with Gilroy on joint advertising.

Overall, the Chamber has met its goals and objectives for FY 02-03. Agency staff will need to meet with the Chamber to negotiate an agreement for Fiscal Year 03-04.

FISCAL IMPACT: None.

Agenda Item # 34

Prepared By:

BAHS Analyst

Approved By:

BAHS Director

Submitted By:
